

REMARKS/ARGUMENTS

Claims 1-12 are pending in this application.

The drawings were objected to because descriptive labels, other than numerical, were not included in Figure 1. Appropriate correction has been made in the attached corrected drawings.

Claims 1-12 were rejected under 35 USC §102(a) as being anticipated by ANYPAY (website download; hereinafter the "ANYPAY reference"). Applicants respectfully request withdrawal of this rejection for the following reasons.

Applicants respectfully assert that the anticipation rejection is improper and should be withdrawn as there is no actual indication of the publication date of the ANYPAY reference pages downloaded by the Examiner. At best, the earliest date attributable to the ANYPAY reference is a 2001 year date, with no month, well after the October 30, 2000 filing date of the present application.

The Examiner has used mention of a conference within the ANYPAY reference pages to provide a date of the ANYPAY reference and a date of conception of the ANYPAY system. Specifically, the ANYPAY reference mentions the "AffiliateForce2000" convention, and the Examiner has downloaded another webpage showing that the AffiliateForce2000 convention occurred in March 2000. The Examiner has used this date, March 2000, as the date of the ANYPAY reference to cite the ANYPAY reference as a 102(a) prior art reference.

Applicants respectfully assert that use of the March 2000 date is improper for the ANYPAY reference and as a date of conception of the ANYPAY system. First, the only actual date attributable to the ANYPAY reference itself is the 2001 copyright designation on all downloaded pages. There is no month indication in this date. This date, 2001, is after the filing date of October 30, 2000 of the present application. Second, although the ANYPAY reference discusses the AffiliateForce2000 convention, which allegedly took place in March of 2000, this date can not be used as the date of the ANYPAY reference as there is no indication of the state of

conception or development of the ANYPAY system as shown in the ANYPAY reference prior to 2001. In pertinent part, the ANYPAY reference reads:

"ANYPAY is developed, marketed and run by Globyte Internet GmbH, Germany. Globyte was founded in March 2000 in Miami by it's current president, Marcus Gabler"

and

"Visiting the AffiliateForce2000 convention for affiliate marketing, many of the attendants and exhibitors confirmed his views and convinced him of starting ANYPAY."

Although the above quotations, coupled with the alleged AffiliateForce2000 convention date, may show that Globyte was founded in March of 2000, there is no indication as to what the ANYPAY system comprised prior to October 30, 2000 or that the ANYPAY system as shown in the ANYPAY reference was actually conceived in March 2000. And there is no indication that the ANYPAY system as shown in the ANYPAY reference was reduced to practice prior to 2001. All that the cited reference shows is that Globyte, the company that developed the ANYPAY system, was founded in March 2000. More importantly, regardless of whether the ANYPAY system teaches or suggests any limitations of the pending claims, there is no indication that the ANYPAY system as shown in the ANYPAY reference included any of the limitations as recited in the present claims prior to the filing date of October 30, 2000, or the priority date of August 15, 2000.

Accordingly, Applicants respectfully request withdrawal of this rejection for at least the above reasons showing that the ANYPAY reference is not a proper prior art reference, having a date after the October 30, 2000 filing date of the present application.

Appl. No. 09/702,274
Amdt. dated July 22, 2003
Reply to Office Action of January 31, 2003


PATENT

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 925-472-5000.

Respectfully submitted,


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